PRACTICAL LAW · ILLUSTRATED BILINGUAL GUIDE · CHAPTER EDITION

Queensland Strata Property Guide
昆士蘭分層產權物業指南

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ENGLISH & TRADITIONAL CHINESE

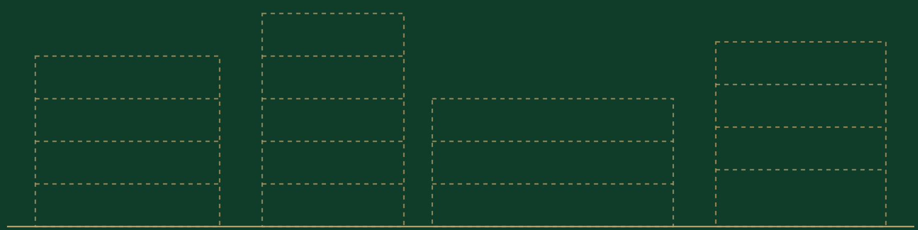
CHAPTER 12 第12章

12

Management Rights

管理權

9 sections · pages 114–122 of the complete guide
9節 · 全書第114至122頁



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STANDALONE CHAPTER EDITION
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This chapter is extracted from the complete guide and is bound with the guide's reader note, core terminology, author profile and important notice so that it can be read alone. Page and figure numbers follow the complete guide.

Reader note

讀者須知

IMPORTANT 重要提示

This guide is general educational information, not legal, financial, tax, building or investment advice. Property and body corporate outcomes turn on the contract, title, survey plan, community management statement, applicable regulation module and current law. Obtain independent Queensland legal advice before signing, waiving a condition, settling, or buying management rights.

本指南僅提供一般教育資訊，並非法律、財務、稅務、建築或投資意見。物業及業主法人團體的法律結果，取決於契約、產權、測量圖則、社區管理聲明、適用的規管模組及現行法例。簽署契約、放棄條件、辦理交割或購買管理權前，應取得獨立的昆士蘭法律意見。

The guide uses “strata” as a convenient Australian umbrella expression. Queensland legislation generally uses “community titles scheme” and “body corporate”; New South Wales uses “strata scheme” and “owners corporation”. State and territory statutes are not interchangeable.

本指南以「分層產權」作為澳洲制度的概括用語。昆士蘭法例一般使用「社區產權項目」及「業主法人團體」；新南威爾斯州則使用「分層產權項目」及「業主立案法團」。各州及領地的法例不可互換適用。

Traditional Chinese terms follow the supplied Australian Strata Titles Glossary. They are practical explanations rather than official translations. Where a translation differs from the English text, the English text governs.

繁體中文用語依照所提供的《澳洲分層產權術語表》。中文屬實務解釋，並非官方譯文。如譯文與英文有異，概以英文為準。

Editorial method

編寫方法

The English narrative uses a proposition–operation–consequence method. Each subject first identifies the legal structure, then explains how it operates and finally states the practical result for an owner, buyer, body corporate, manager or adviser. The wording and analysis in this guide remain original.

英文正文採用「法律命題—運作方式—實務結果」的編寫方法。每一主題先確定法律架構，再說明其運作方式，最後指出對業主、買方、業主法人團體、管理人或顧問的實際影響。本指南的文字及分析均為原創。

- Define the statutory object before discussing its commercial effect.
- Keep title, governance, management and contractual rights analytically separate.
- Use legislative history and worked examples to explain why the present rule exists.

- 先界定法定對象，再討論其商業效果。
- 分開分析產權、治理、管理及契約權利。
- 以立法沿革及實例說明現行規則的由來。

- State the jurisdictional qualification and practical consequence, rather than relying on labels.
- 明確指出司法管轄區限制及實務後果，而不依賴名稱標籤。

Core terminology

核心術語

CORE TERMS 核心術語	CORE TERMS 核心術語
Strata title 分層產權 Separate ownership of a lot plus shared interests and obligations. 單元之獨立所有權，並附帶共有權益與共同義務。	**Community titles scheme** 社區產權項目 Queensland’s main statutory scheme structure. 昆士蘭主要的法定社區產權項目架構。
Body corporate 業主法人團體 The statutory collective body comprising all lot owners. 由所有單元業主組成的法定集體組織。	**Lot** 單元／地塊 The separately owned property shown on the registered plan. 註冊圖則所示並由個別業主持有的獨立產權部分。
Common property 公共財產／共有財產 Shared land and infrastructure outside individual lots, subject to the plan. 位於個別單元範圍以外、依圖則界定的共用土地及基礎設施。	**Community Management Statement (CMS)** 社區管理聲明 Recorded document containing scheme identification, entitlements, by-laws and module. 載有項目識別資料、權益表、管理規約及適用規管模組的註冊文件。
Volumetric subdivision 空間體積式分割 Three-dimensional division of land into separately titled spatial lots. 將土地以三維空間方式分割為可獨立登記的空間地塊。	**Building Management Statement (BMS)** 建築管理聲明 Registered reciprocal rights and obligations coordinating shared building interfaces. 以註冊互惠權利及義務協調共用建築介面的文件。
By-laws 管理規約 Scheme rules regulating use and enjoyment of lots and common property. 規管單元及共有財產使用與享用的項目規則。	**Levy** 管理費 An owner’s contribution to body corporate expenditure. 業主為支付業主法人團體開支而繳付的管理費。
Sinking fund 儲備基金／維修基金 Fund for forecast capital expenditure and major replacement work. 用於預計資本開支及主要更換工程的基金。	**Management rights** 管理權 A combined caretaking and authorised letting business connected with a scheme. 與項目相關的管理維護服務及獲授權出租業務的組合。
Committee 委員會 Elected body that administers the scheme between general meetings; its authorised decision is a decision of the body corporate. 由業主選出、在兩次業主大會之間管理項目的機關；其獲授權的決定即屬業主法人團體的決定。	**General meeting** 全體業主大會 Meeting of all owners at which reserved and restricted issues are decided by the prescribed resolution. 全體業主參與的會議，保留及受限制事項須在此以規定決議決定。

ABOUT THE AUTHOR · 關於作者

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Kevin Pai is a Partner of Bugden Allen Group Legal. His work focuses on strata and community title development, complex and mixed-use titling, project restructuring, body corporate governance and management rights. He has particular experience with Queensland's historical and site-specific regimes and advises developers, bodies corporate, managers, investors and overseas participants on transactions, governance and disputes.

白宗翰是Bugden Allen Group Legal合夥人。他專注於分層及社區產權發展、複雜及混合用途產權架構、問題項目重組、業主法人團體治理及管理權，並對昆士蘭歷史及特定地點制度具有專門經驗。他為開發商、業主法人團體、管理人、投資者及海外參與者就交易、治理及爭議提供意見。

Kevin is an honours law graduate of the University of Queensland, a member of the Australian College of Strata Lawyers, the Urban Development Institute of Australia (Queensland) and Strata Community Association (Queensland). His practice connects development structuring with the long-term operational consequences of the title, governance and management documents.

白宗翰以榮譽成績畢業於昆士蘭大學法律系，並為澳洲分層產權律師學院、澳洲城市發展學會（昆士蘭）及昆士蘭分層社區協會成員。他的執業把發展架構與產權、治理及管理文件的長期運作後果結合分析。

PRACTICE	FIRM	MEMBERSHIPS
Strata & community title development	Bugden Allen Group Legal	ACSL · UDIA (Qld) · SCA (Qld)
分層及社區產權發展	合夥人	專業學會成員

CHAPTER 12 · 第12章

12

Management Rights

管理權

“Management rights” is a transaction label for a group of related but legally distinct assets. It commonly combines a body corporate caretaking or service engagement, an authorisation and business for onsite letting, and ownership or occupation rights over a manager’s unit, reception or office. The package succeeds only if each component is valid, transferable, financeable and capable of completing with the others.

「管理權」是對一組互相關聯但法律上彼此獨立資產的交易名稱。它通常結合業主法人團體的管理維護或服務委任、駐場出租業務的授權及業務，以及對管理人單元、接待處或辦公室的所有權或佔用權。只有每一組成部分均有效、可轉讓、可融資，並能與其他部分同步完成，整體交易方能成立。

12.1

The business components

業務組成

FIG 22 The three connected assets in management rights ／ 管理權的三項相連資產

Completion must align: legal transfer · finance · body corporate consent · property settlement
各項完成須互相配合：法律轉讓・融資・業主法人團體同意・物業交割

12.2

Why management rights affect lot owners

管理權為何影響單元業主

- Caretaking remuneration is funded through body corporate levies.
- Long terms and options can materially affect future budgets and bargaining power.
- Service quality affects presentation, maintenance and resident experience.
- The onsite letting business may influence investor service but does not give the agent a monopoly over lot owners.

- 管理維護報酬由業主法人團體管理費支付。
- 長年期及續期權可重大影響未來預算及議價能力。
- 服務質素影響項目外觀、維修及住戶體驗。
- 駐場出租業務可影響投資者服務，但不賦予代理人對單元業主的壟斷權。

- Transfer or termination is regulated and cannot be treated like an ordinary supplier change.

- 轉讓或終止受法例規管，不能視為普通更換供應商。

12.3

Buyer due diligence for management rights

購買管理權的盡職調查

01 Engage a lawyer experienced in management-rights transactions and body corporate law.

聘請具管理權交易及業主法人團體法律經驗的律師。

02 Verify every agreement, remaining term, option, remuneration clause, review mechanism and assignment condition.

核實每份協議、剩餘年期、續期權、報酬條款、調整機制及轉讓條件。

03 Complete financial verification of the letting roll, owner appointments, commissions, expenses and normalised profit.

核實出租名冊、業主委任、佣金、支出及正常化利潤。

04 Inspect the manager’s unit, office, storage, equipment and occupation rights separately.

分別檢查管理人單元、辦公室、儲物、設備及佔用權。

05 Review committee minutes, complaints, remedial notices, disputes, compliance history and relationship risk.

審閱委員會紀錄、投訴、補救通知、爭議、合規歷史及關係風險。

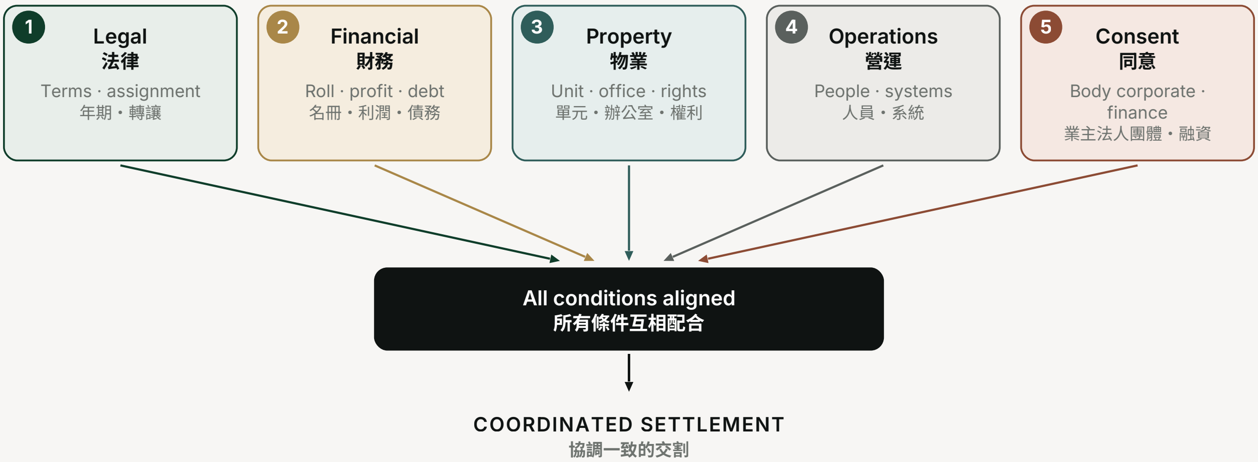
06 Confirm property licensing, trust-account systems, employment obligations, insurance and work health and safety.

確認地產牌照、信託帳戶系統、僱傭義務、保險及工作健康安全。

07 Make settlement conditional on required body corporate consent, finance and satisfactory verification.

把所需業主法人團體同意、融資及滿意核查列為交割條件。

FIG 23 **Management-rights due diligence workstreams** ／管理權盡職調查工作流



12.4

Body corporate perspective

業主法人團體角度

When asked to approve a transfer, the body corporate should use the statutory process, obtain relevant information, assess competence and financial standing, and avoid irrelevant or discriminatory considerations. If performance is deficient, the body corporate should document the contractual duty, evidence, notice requirements and resolution pathway before attempting termination.

當被要求批准轉讓時，業主法人團體應依照法定程序取得相關資料，評估受讓人的能力及財政狀況，並避免考慮無關或歧視因素。如履約欠佳，業主法人團體在嘗試終止前，應記錄契約職責、證據、通知要求及決議程序。

NOT THE SAME AS STRATA ADMINISTRATION 不等同分層產權行政管理

Management rights usually combine caretaking and letting. A body corporate manager mainly provides administrative services. The businesses can be owned by the same group, but the contracts, duties, conflicts and revenue streams remain separate.

管理權通常結合管理維護及出租業務；業主法人管理人主要提供行政服務。兩類業務可由同一集團擁有，但契約、職責、利益衝突及收入來源仍須分開。

12.5

The three-asset structure

三項資產架構

A management-rights acquisition commonly combines three assets: a caretaking or service engagement with the body corporate, an authorisation and business for onsite letting, and real estate or occupation rights for the manager's unit, reception, office or storage. They are economically connected but must be verified and transferred through different legal documents.

管理權收購通常結合三項資產：與業主法人團體訂立的管理維護或服務委任、駐場出租授權及業務，以及管理人單元、接待處、辦公室或儲物空間的房地產或佔用權。三者在經濟上互相關聯，但須透過不同法律文件分別核實及轉讓。

The business can fail if any component is missing or unsuitable. A profitable letting roll may not compensate for an expiring caretaking term; a valuable manager's unit may not carry lawful office rights; body corporate consent may be needed for assignment even when the business sale contract is unconditional. The acquisition agreement should coordinate conditions, completion and default across all components.

任何一項組成欠缺或不合適，均可令業務失敗。盈利出租名冊未必能彌補即將屆滿的管理維護年期；高價值管理人單元未必附帶合法辦公室權利；即使業務買賣契約無條件，轉讓仍可能需要業主法人團體同意。收購契約應協調所有組成的條件、完成及違約。

PRACTICAL CHECKLIST 實務清單

- Create a separate asset schedule for each component.
- Make completion interdependent where commercially necessary.
- Verify title and occupation rights independently.
- Align finance security with the assets acquired.

- 為每項組成建立獨立資產表。
- 在商業上有需要時令各項完成互為條件。
- 獨立核實產權及佔用權。
- 令融資抵押與所收購資產相配。

PRACTICAL EFFECT 實務效果

Management rights is a transaction label, not a single asset capable of one-document due diligence.

管理權只是交易名稱，並非可由單一文件完成盡職調查的單一資產。

12.6

Term, remuneration and assignment

年期、報酬與轉讓

The value of the caretaking component depends heavily on remaining term, options, remuneration, indexation, duties and assignment rights. The applicable regulation module affects permissible terms and approval processes. The buyer should trace the initial contract date, every variation and renewal, and verify that documents were properly approved and executed.

管理維護部分的價值高度取決於剩餘年期、續期權、報酬、指數調整、職責及轉讓權。適用規管模組影響准許年期及批准程序。買方應追溯首份契約日期、每次變更及續期，並核實文件是否獲適當批准及簽署。

Assignment usually requires body corporate approval. The committee may assess matters permitted by the legislation, including the proposed transferee's competence and financial standing, but must act reasonably and avoid irrelevant considerations. Transfer fees and information requirements are regulated. The sale contract should allow time for the statutory process and satisfactory finance.

轉讓通常需要業主法人團體批准。委員會可評估法例准許的事項，包括擬受讓人的能力及財務狀況，但須合理行事並避免無關考慮。轉讓費及資料要求受法例規管。買賣契約應預留法定程序及取得滿意融資所需時間。

PRACTICAL CHECKLIST 實務清單

- Verify the full chain of agreements and variations.
- Recalculate remaining term from the legally effective dates.
- Model remuneration under every indexation clause.
- Make body corporate consent a coordinated condition.

- 核實完整協議及變更鏈。
- 從具法律效力日期重新計算剩餘年期。
- 按每項指數調整條款模擬報酬。
- 把業主法人團體同意列為協調條件。

> PRACTICAL EFFECT 實務效果
>
> Valuation should use the legally enforceable remaining income stream, not the seller's description of the term.
>
> 估值應採用法律上可執行的剩餘收入流，而不是賣方對年期的描述。

12.7

Letting roll quality and business valuation

出租名冊質素與業務估值

Letting income is earned under individual owner appointments, not merely from body corporate authorisation. Due diligence should verify each appointment, commission rate, term, termination rights, trust-account records, rent roll, vacancy, arrears and owner concentration. Owners remain free to use another agent, so retention cannot be assumed.

出租收入源自個別業主委任，而不只是業主法人團體授權。盡職調查應核實每份委任、佣金率、年期、終止權、信託帳戶紀錄、租金名冊、空置、欠租及業主集中度。業主可自由選用其他代理，因此不能假設客戶必然保留。

Normalised profit should exclude personal, one-off and related-party items and include realistic staffing, licence, software, insurance, vehicle, office and compliance costs. The multiplier applied to profit reflects quality and risk; it does not cure unreliable earnings. The buyer should analyse churn, complaints, competing agents and the relationship between caretaking performance and owner retention.

正常化利潤應剔除私人、一次性及關聯方項目，並計入實際人手、牌照、軟件、保險、車輛、辦公室及合規成本。套用於利潤的倍數反映質素及風險，不能補救不可靠盈利。買方應分析客戶流失、投訴、競爭代理，以及管理維護表現與業主保留之間的關係。

PRACTICAL CHECKLIST 實務清單

- Sample and verify owner appointments.
- Reconcile trust records to financial statements.
- Normalise labour and compliance costs.
- Stress-test loss of major owner clients.

- 抽樣核實業主委任。
- 把信託紀錄與財務報表核對。
- 正常化人力及合規成本。
- 測試失去主要業主客戶的影響。

> **PRACTICAL EFFECT 實務效果**
>
> A letting roll is a portfolio of terminable agency relationships, not a guaranteed annuity.
>
> 出租名冊是一組可終止代理關係，而不是保證年金。

12.8

Acquisition due diligence and finance

收購盡職調查與融資

The buyer's advisory team commonly includes a management-rights lawyer, an accountant, a financier, a valuer and a building inspector. Legal due diligence verifies agreements, approvals, compliance, disputes and transfer conditions. Financial due diligence verifies income and expenses. The property inspection treats the manager's real estate separately from the business assets.

買方團隊通常包括管理權律師、會計師、融資人、估值師及建築檢查員。法律盡職調查核實協議、批准、合規、爭議及轉讓條件；財務盡職調查核實收入及支出；物業檢查則把管理人物業與業務資產分開處理。

Lenders often take security over the business, agreements and real estate and impose financial covenants. The acquisition contract should coordinate finance approval, body corporate consent, verification, training, handover and settlement deliverables. Searches should cover licences, litigation, insolvency, employment, tax, intellectual property, equipment ownership and privacy or cybersecurity systems.

貸款人通常就業務、協議及房地產取得抵押，並施加財務契諾。收購契約應協調融資批准、業主法人團體同意、核實、培訓、交接及交割交付成果。查冊應涵蓋牌照、訴訟、無力償債、僱傭、稅務、知識產權、設備所有權及私隱或網絡安全系統。

PRACTICAL CHECKLIST 實務清單

- Run legal, financial and property reviews in parallel.
- Coordinate all conditions precedent and deadlines.
- Prepare a detailed handover schedule.
- Verify lender security and consent requirements.

- 並行進行法律、財務及物業審查。
- 協調所有先決條件及期限。
- 編製詳細交接表。
- 核實貸款人抵押及同意要求。

PRACTICAL EFFECT 實務效果

The transaction should not become unconditional until every component can complete together on financeable terms.

在所有組成可按可融資條件一併完成前，交易不應成為無條件。

12.9

Body corporate oversight, breach and exit

業主法人團體監督、違約與退出

The body corporate should manage the engagement as a long-term contract, not a personal relationship. It should retain the executed documents, duty schedules, remuneration history, disclosure records, inspection reports, complaints and correspondence. Committee turnover must not erase institutional knowledge.

業主法人團體應把委任當作長期契約管理，而不是私人關係。應保存已簽文件、職責表、報酬歷史、披露紀錄、檢查報告、投訴及往來文件。委員會更替不應令組織記憶消失。

Where performance is deficient, the legal pathway depends on the agreement and statute. A remedial action notice must identify the alleged misconduct, gross negligence, duty failure, code breach or disclosure failure with sufficient detail and provide the required opportunity to remedy. Termination by agreement, contractual termination and statutory termination have different approval and evidence requirements.

如履約欠佳，法律途徑取決於協議及法例。補救行動通知須充分具體指出涉嫌失當、嚴重疏忽、未履行職責、違反行為守則或披露責任，並提供規定整改機會。協議終止、契約終止及法定終止具有不同批准及證據要求。

PRACTICAL CHECKLIST 實務清單

- Maintain an objective performance register.
- Match every complaint to a contractual duty.

- 保存客觀履約登記冊。
- 把每項投訴對應至契約職責。

- Use the correct resolution and notice procedure.
- Plan service continuity before termination.

- 使用正確決議及通知程序。
- 終止前規劃服務持續安排。

PRACTICAL EFFECT 實務效果

Weak evidence and procedural shortcuts can defeat an otherwise genuine performance complaint.

薄弱證據及程序捷徑可令原本真實的履約投訴失敗。

Important notice

重要聲明

This guide is general educational information. It is not legal, financial, tax, building or investment advice, and it does not create a lawyer–client relationship. Property and body corporate outcomes turn on the particular contract, title, survey plan, community management statement, applicable regulation module and the law in force at the relevant time.

本指南僅提供一般教育資訊，並非法律、財務、稅務、建築或投資意見，亦不構成律師與客戶關係。物業及業主法人團體的法律結果，取決於個別契約、產權、測量圖則、社區管理聲明、適用的規管模組，以及相關時間的現行法例。

Obtain independent Queensland legal advice before signing a contract, waiving a condition, settling, or buying management rights. Where the English and Chinese texts differ, the English text governs.

簽署契約、放棄條件、辦理交割或購買管理權前，應取得獨立的昆士蘭法律意見。如中英文本有異，概以英文為準。

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